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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,739	12/05/2003	Eric G. Hull	427600700087	3999

7590 07/01/2005

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/729,739	Applicant(s) HULL ET AL.	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14 and 17-25 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-25 are objected to because of the following informalities: Regarding claims 1-25, the phrase "ENT tube" renders the claim indefinite because the meaning of ENT is unclear. Correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

States.

3. Claims 1-4, 7-14 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerich (US 6,199,918 B1).

Gerich discloses a fitting (10) comprises a molded plastic body (14) having an inverted generally cup-like configuration (C. 3, L. 3-7 and Figs. 1-7). The body has a body wall forming an internal cavity having a bottom opening (16), an attachment flange (between 18 and 15) and a socket (18). The attachment flange extends outwardly from the body wall around the bottom opening (Figs. 1-7). The flange has a plane outer surface (Figs. 1-7). The socket extends through the wall into the cavity for receiving an end portion of a tube (12). The socket has a longitudinal socket axis intersecting the

bottom opening (Figs. 1-7). The socket has a generally cylindrical entrance portion extending over a portion of the axial length of the socket (Figs. 1-7). The socket has a plurality of circumferentially-spaced resilient fingers (38.1) extending from the generally cylindrical entrance portion over the remaining length of the socket. The fingers are inclined inwardly toward the socket axis and having finger inner surfaces that lie on the surface of a cone (Figs. 4 and 5). Gerich fails to disclose the flange has a plurality of fastener receiving holes therethrough spaced around the opening. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of fastener receiving holes therethrough spaced around the opening since the Examiner takes Official Notice that the use of a plurality of holes is well known in the art to allow secure attachment of the fitting to a supporting surface or member where since fasteners can be threaded through the holes.

Gerich also discloses that:

- The fingers have terminal ends and at least one opposed pair of the fingers have radially inwardly extending teeth (42) thereon adjacent the terminal ends thereof.
- The teeth are spaced toward the socket entrance opening from the finger terminal ends (Figs. 1-7).
- The teeth have smoothly rounded tooth end portions facing toward the socket axis (Figs. 4 and 5).

- The bottom opening is circular and has a central axis (Figs. 1-7). The body wall has a generally frustoconical shape and the socket axis being generally coincidental with the bottom opening axis (Figs. 1-7).
- The fingers have terminal ends and are separated by generally V-shaped spaces that increase in width from the generally cylindrical entrance portion to the finger terminal ends so that the fingers gradually decrease in circumferential width in a direction from the generally cylindrical entrance portion to the finger terminal ends (Figs. 1-7).
- The body wall has a flat wall portion and the socket extends into the cavity through the flat wall portion (Figs. 1-7).
- The fingers have terminal ends and only two opposed ones of the fingers have radially inwardly extending teeth thereon adjacent the finger terminal ends (Figs. 1-7).

Gerich fails to disclose that the socket axis extends at an angle of 45 degrees to the plane of the flange plane outer surface. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the socket axis extending at an angle of 45 degrees to the plane of the flange plane outer surface since the Examiner takes Official Notice that the use of fittings where the socket axis extends at an angle of 45 degrees to the plane of the flange plane outer surface is well known in the art in order to change the direction of the tube when an obstruction is encountered or where space is limited.

Regarding claim 12, claim 12 can be rejected by using a combination of the rejection of claims 1 and 7 that will provide the same limitations being recited by claim 12.

Regarding claim 19, claim 19 can be rejected by using a combination of the rejection of claims 1 and 8 that will provide the same limitations being recited by claim 19 since the 45 degrees is equivalent to the inclination with respect to the plane.

Allowable Subject Matter

4. Claims 5, 6, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gruber et al. (US 5,112,086), Shirogane et al. (US 5,356,181), Gerich (US 6,199,918) and Hardic et al. (US 2003/0155767) are cited to show state of the art with respect to fittings having similar limitations to those being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
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(Typed or printed name of person signing this certificate)

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
June 27, 2005